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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,380	10/04/2006	Ralph Buesgen	2003P05648WOUS	3668

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Siemens Corporation  
Intellectual Property Department  
170 Wood Avenue South  
Iselin, NJ 08830

EXAMINER
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ISOM, JOHN W

ART UNIT	PAPER NUMBER
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2447

MAIL DATE	DELIVERY MODE
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06/23/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<b>Application No.</b> 10/553,380	<b>Applicant(s)</b> BUESGEN ET AL.	
	<b>Examiner</b> John Isom	<b>Art Unit</b> 2447	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 10 June 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: 21-27,31-33 and 38-42.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

/Joon H. Hwang/  
 Supervisory Patent Examiner, Art Unit 2447

Continuation of 11. does NOT place the application in condition for allowance because: The rejection of claims 21-27, 33, 38 and 40-42 under 35 U.S.C. 102(b) as being anticipated by Allon et al. (US Pat. No. 5539883) ("Allon") is not in error, for the following 5 reasons:

(1) Allon teaches "replacing the drive device with a replacement drive device" as in claim 21.

Allon discloses computers in a network logically linked in a hierarchical tree structure (column 4, lines 16-31); a computer comprising a means for storing information (column 6, lines 14-28); and "[a] computer program product, for use with a computer, comprising: a recording medium" (column 16, lines 46-48). A "drive" is "[a] device that reads data from and often writes data onto a storage medium" (see American Heritage Dictionary). Because a computer reads data from and often writes data onto a storage medium, a computer can be construed to be a drive. Because a computer is also a device, a computer can be construed to be a drive device. Allon further discloses that, in the hierarchical tree structure, a dead node is detected, and a new node is added, because nodes fail (column 8, lines 34-39). This disclosure implies that a new node may be added to replace a dead node which has failed. Thus, Allon teaches replacing a dead node with a new node. Because the dead node teaches "the drive device", and the new node teaches "a replacement drive device", Allon teaches "replacing the drive device with a replacement drive device" as in claim 21.

(2) Allon teaches "providing a second device with data memory or storage in which a relationship or order of the drive device with respect to at least the second device is stored" as in claim 21.

Allon discloses that information stored in each computer contains a number of entries, each entry containing information regarding the number of links in the tree separating a particular computer from the computer in which the information is stored, and the rank of the particular computer, logically linked to the computer in which the information is stored, from which the entry was last received (column 5, lines 22-32). In this disclosure, the computers teach "a second device and the drive device". The means for storing information and the recording medium, teach "data memory or storage". The information teaches "a relationship or order of the drive device with respect to at least the second device". Thus, Allon teaches the limitation at issue.

(3) Allon teaches "operating the replacement drive device to identify a first of the nodes to which it is assigned and to identify other devices" as in claim 21.

Allon discloses that when a computer is added to the network, the computer looks for a parent computer (column 8, lines 54-55; column 7, lines 1-6); and that each node receives information from the nodes to which it is linked in the tree structure, and that information on nodes in another sub-tree can reach any node (column 10, lines 25-34). In this disclosure, the added computer teaches "a replacement drive device". The network teaches "the nodes to which it is assigned". The disclosure that the computer looks for a parent computer, teaches "to identify a first of the nodes to which it is assigned". The facts that each node receives information from the nodes to which it is linked, and that information on nodes in another sub-tree can reach any node, imply "to identify other devices including the second device". Thus, Allon teaches the limitation at issue.

(D) The language in the preamble of claim 41 does not limit the claim, and Allon discloses the subject matter of that language.

The language "In an reconfigurable network comprising a plurality of devices", does not limit the claims because that language is not positively recited as part of the claimed method. Furthermore, because the language "identifying an order of devices in the network thereby enabling determination of relative spatial arrangements among the devices" merely expresses an intended result of the method, that language is not given weight. Thus, the language at issue does not limit the claim. Nonetheless, Allon does disclose computers in a network logically linked in a hierarchical tree structure (column 4, lines 16-31). Allon further discloses that for each of the computers, a link to a computer of lower rank is a link to a parent which is higher up in the tree, and a link to each of computers of higher rank is a link to a child which is lower down in the tree (column 7, lines 1-6; column 4, lines 16-31). In this disclosure, the computers in a network logically linked in a hierarchical tree structure, disclose "an reconfigurable network comprising a plurality of devices". The computers, disclose "the devices". The link to a parent, discloses a "relationship among the nodes". The facts that the link to the parent is higher up in the tree, and the link to a child is lower down in the tree, disclose "identifying an order of devices in the network thereby enabling determination of relative spatial arrangements among the devices". Thus, Allon discloses the subject matter of the language at issue.

(E) Allon teaches "a first of the devices . . . determining the number of connections of the first node, the first hierarchical arrangement of the connections and nodes, and the connection with which the device is connected to the first node" as in claim 41.

Allon discloses that when a computer is added to the network, the computer looks for a parent computer (column 8, lines 54-55; column 7, lines 1-6); that information stored in each computer contains a number of entries, each entry containing information regarding the number of links in the tree separating a particular computer from the computer in which the information is stored (column 5, lines 22-32); that this node receives information from other nodes through the parent (column 10, lines 25-34); and that this node stores the rank of each of the other nodes linked to this node (column 5, lines 22-32). In this disclosure, the added computer and the node, teach "a first of the devices". The parent, teaches "the first node". The fact that this node stores the number of links to each of the other nodes, enables this node to ascertain that: the number of connections of its parent is equal to the number of nodes, from which this node receives information through the parent, and for which the number of links to this node is 2. The fact that this node stores the rank of each of the other nodes linked to this node, teaches "determining . . . the first hierarchical arrangement of the connections and nodes, and the connection with which the device is connected to the first node". Thus, Allon teaches the limitation at issue.

Conclusion: For the foregoing 5 reasons, the instant rejection is not in error. Accordingly, the instant rejection is continued.